

# Alliance of Western Milk Producers

Representing California's dairy cooperatives and their producer-owners since 1991

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January 6, 2006

A. G. Kawamura, Secretary  
California Department of Food and Agriculture  
1220 N Street  
Sacramento, CA 95814

Subject: Department Denial of Alliance/Western United Class 1 Hearing Petition

Dear Secretary Kawamura:

The Alliance was shocked that its petition for a Class 1 hearing denied by the Department. The request was based on the requirements in California Food & Agriculture Code Section 62062.1 which states:

"Any designation of a class 1 price by any method or formula that is used to develop class 1 prices paid to producers in the various marketing areas, shall provide, on a calendar year basis, a statewide weighted average minimum price level for a hundred weight of milk testing 3.5 fat and 8.7 solids not fat that is in reasonable relationship with minimum class 1 milk prices paid to producers in contiguous states. If the statewide weighted average class 1 prices paid to producers are not in a reasonable relationship with the class 1 prices paid to producers in contiguous states, **the secretary shall immediately hold a hearing to consider adjustments to the class 1 prices.**" (Emphasis added)

In the Department letter denying our request it is plainly stated, "The Department's review found the California Class 1 differences from Class I prices cited in your letter to be accurate." The letter does not refute or provide any analysis to refute our claim that the 2005 weighted average California Class 1 price is not in reasonable relationship with minimum Class 1 prices paid producers in contiguous states.

The Department letter goes on to say, "After careful consideration of all factors, the Department has determined that there is an insufficient basis to change the current Class 1 pricing formula at this time."

The Alliance believes that the purpose of holding a hearing is to determine whether or not the Class 1 pricing formula should be changed. The only basis for denying a hearing request based on Section 62062.1 is if the Department finds that California's 2005 calendar year weighted average Class 1 price was in a reasonable relationship to class 1 prices in contiguous states. The statement that the Department "observed" that the California Class 1 price exceeded the Southern Nevada Class I price cannot be construed as economic justification for denying the hearing.

The test for reasonableness in Section 62062.1 is very specific; it is the relationship of the weighted-average, calendar-year California Class 1 producer price for milk testing 3.5% milkfat,

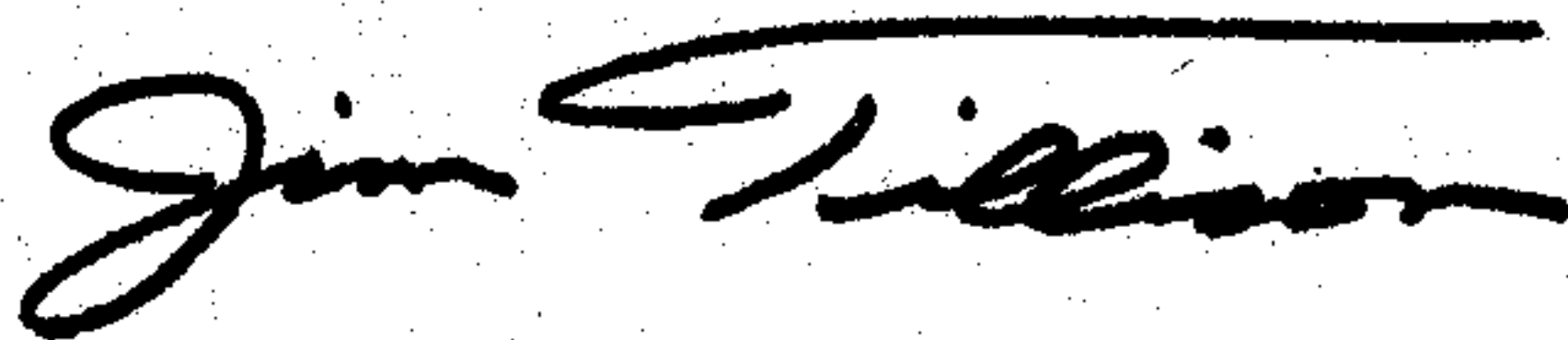


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8.7 percent solids not fat to producer class 1 prices in contiguous states. Clearly, California's 2005 weighted average Class 1 price cannot be construed as being in a reasonable relationship with producer prices in surrounding states. The Department does not refute that in its letter. Given that fact, Section 62062.1 says that the secretary **shall immediately hold a hearing to consider adjustments to the class 1 prices.** Section 62062.1 does not say that instead of holding a hearing the Department can unilaterally determine that there is insufficient basis to change the Class 1 formula. That is why section 62062.1 was put in the code by the State Legislature in the first place, to establish criteria on which to base calling a hearing.

Therefore, the Alliance respectfully requests that the Department reverse its decision and call a Class 1 price hearing as required by Section 62062.1.

Submitted by



Jim Tillison, CEO

cc: Alliance Board of Directors  
A. J. Yates, Undersecretary  
Kelly Krug, Director Marketing Branch  
Dave Ikari, Dairy Branch Manager